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ID

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
|-----------------|-------------|----------------------|---------------------|
|-----------------|-------------|----------------------|---------------------|

09/401,839    09/22/99    GATELY    M    1803-247

020583    HM12/0821  
PENNIE AND EDMONDS  
1155 AVENUE OF THE AMERICAS  
NEW YORK NY 10036-2711

EXAMINER

MERTZ, P

ART UNIT

PAPER NUMBER

1646

12

DATE MAILED:

08/21/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**



UNITED STATES DEPARTMENT OF COMMERCE  
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| SERIAL NUMBER | FILING DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NO. |
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| EXAMINER |              |
|          |              |
| ART UNIT | PAPER NUMBER |
|          | 12           |

DATE MAILED:

**Please find below a communication from the EXAMINER in charge of this application**

Commissioner of Patents

1. Claims 1-32 have been canceled in Paper No. 2, 9/22/99. Claims 34-36, amended claims 33, 37-38 (Paper No. 11, 7/25/00), are under consideration.

2. Receipt of applicant's arguments and amendments filed in Paper No. 11 (7/25/00) is acknowledged. The IDS submitted in Paper No. 8 (7/25/00) has been considered.

3. The Request Under 37 CFR 1.607 and 1.608(a) for Interference with a Patent has been considered and has been granted.

The Second Declaration of Thomas E. Friebe Under 37 CFR 1.608(a) has been acknowledged and considered.

The Second Declaration by David H. Presky has been acknowledged and is persuasive

4. The following previous rejections and objections are withdrawn in light of applicants amendments filed in Paper No. 11, 7/25/00:

(i) the rejection of claims 33-38 under 35 U.S.C. 102(e) as being anticipated by Trinchieri et al. (US Patent No. 5,811,523), and

(ii) the rejection of claims 33-38 under 35 U.S.C. 103(a) as being unpatentable over Trinchieri et al. (U.S. Patent No. 5,811, 523).

4. All claims are allowable. However, due to a potential interference, *ex parte* prosecution.

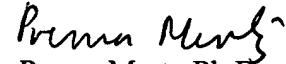
***Advisory Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Prema Mertz whose telephone number is (703) 308-4229. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30PM (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yvonne Eyler, can be reached on (703) 308-6564.

Official papers filed by fax should be directed to (703) 308-4227. Faxed draft or informal communications with the examiner should be directed to (703) 308-0294.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

  
Prema Mertz Ph.D.  
Primary Examiner  
Art Unit 1646  
August 18, 2000